

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Terrell v. USAIR

132 F.3d 621 (11th Cir. 1998) · No. No. 96-2345 · Decided January 6, 1998

SUMMARY

The Eleventh Circuit affirmed summary judgment for USAir on Peggy H. Terrell’s Americans with Disabilities Act claim. Assuming that Terrell’s carpal tunnel syndrome constituted a disability, the court held that USAir had reasonably accommodated her by modifying her work schedule and providing access to a suitable workstation. The court also held that USAir was not required to create a part-time position when no such positions existed, and declined to consider an hourly-break argument raised for the first time on appeal.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Edmondson; Tjoflat; Anderson
JURISDICTION	Federal
DECIDED	January 6, 1998
DOCKET	No. 96-2345
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed the district court's grant of summary judgment for USAIR on her Americans with Disabilities Act claim.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, viewing the facts in the light most favorable to the plaintiff.
PRECEDENTIAL VALUE	Published Eleventh Circuit opinion; precedential.
PARTIES	Peggy H. Terrell v. USAIR

TOPICS

- ada discrimination
- reasonable accommodation
- disability discrimination
- standard of review
- preservation of error

PRACTICE AREAS

- employment law
- disability discrimination
- appellate procedure

QUESTIONS PRESENTED

1. Whether the district court erred in granting summary judgment on the ADA claim based on the conclusion that Terrell was not disabled.
2. Whether USAIR reasonably accommodated Terrell's alleged disability by modifying her schedule, providing access to a drop keyboard, and otherwise modifying her work conditions.
3. Whether Terrell could raise on appeal her claim that USAIR should have provided five-minute breaks every hour when that argument was not raised in the district court.

HOLDINGS

1. The court did not need to decide whether Terrell was disabled because, even assuming that she had an ADA disability, USAIR reasonably accommodated it.
2. The ADA did not require USAIR to create a part-time reservations-agent position for Terrell where the company had eliminated all such positions and had no part-time positions available when she requested one.
3. USAIR reasonably accommodated Terrell despite a delay in providing her with a personal drop keyboard.
4. The court would not consider Terrell's argument that USAIR failed to provide five-minute hourly breaks because she did not raise that issue in the district court.

KEY QUOTATIONS

“A plaintiff does not satisfy her initial burden by simply naming a preferred accommodation—even one mentioned in the statute or regulations; she must show that the accommodation is “reasonable” given her situation.” (626)

“we hold that USAir was not required to create a part-time position for Plaintiff where all part-time positions had already been eliminated from the company.” (626-627)

“The district court did not err in concluding that this delay was reasonable, considering that Plaintiff had some access to a drop keyboard position during this time and that she was not required to type when she had no access.” (628)

FACTUAL BACKGROUND

Terrell, a USAIR reservations sales agent, developed carpal tunnel syndrome and was medically restricted to working no more than four hours per day. USAIR repeatedly modified her schedule, later placed her on unpaid medical leave after she exceeded the company's sixty-day limited-duty period, and eventually recalled her to a part-time position when such positions were reinstated. USAIR also provided access to a drop keyboard and permitted her to avoid typing when one was unavailable.

PROCEDURAL HISTORY

Terrell sued USAIR under the ADA and the Age Discrimination in Employment Act. The United States District Court for the Middle District of Florida granted USAIR summary judgment on both claims. Terrell did not

appeal the ADEA ruling and appealed only the ADA ruling.

DISPOSITION

affirmed

CASES CITED

- Parks v. City of Warner Robins, Ga., 43 F.3d 609, 612-13 (11th Cir. 1994)
- Stewart v. Happy Herman's Cheshire Bridge, Inc., 117 F.3d 1278, 1285-86 (11th Cir. 1997)
- Willis v. Conopco, Inc., 108 F.3d 282, 284-86 (11th Cir. 1997)
- Holifield v. Reno, 115 F.3d 1555, 1564 n.6 (11th Cir. 1997)
- Pritchard v. Southern Co. Services, 92 F.3d 1130, 1132 (11th Cir. 1996)
- Wernick v. Federal Reserve Bank, 91 F.3d 379, 385 (2d Cir. 1996)
- Howell v. Michelin Tire Corp., 860 F. Supp. 1488, 1492 (M.D. Ala. 1994)
- Whitbeck v. Vital Signs, Inc., 934 F. Supp. 9, 16 (D.D.C. 1996), rev'd on other grounds, 116 F.3d 588 (D.C. Cir. 1997)
- White v. York International Corp., 45 F.3d 357, 362 (10th Cir. 1995)
- School Board of Nassau County v. Arline, 480 U.S. 273, 289 n.19 (1987)
- Vande Zande v. Wisconsin Department of Administration, 44 F.3d 538, 545 (7th Cir. 1995)
- Holbrook v. City of Alpharetta, Ga., 112 F.3d 1522, 1528 (11th Cir. 1997)
- Daugherty v. City of El Paso, 56 F.3d 695, 700 (5th Cir. 1995)
- Rhodes v. Bob Florence Contractor, Inc., 890 F. Supp. 960, 967 (D. Kan. 1995)
- Depree v. Thomas, 946 F.2d 784, 793 (11th Cir. 1991)

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